

UNITED STATES OF AMERICA
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

CHAIRMAN:

Judge Wm. Terrell Hodges
United States District Court
Middle District of Florida

MEMBERS:

Judge D. Lowell Jensen
United States District Court
Northern District of California

Judge Kathryn H. Vratil
United States District Court
District of Kansas

Judge David R. Hansen
United States Court of Appeals
Eighth Circuit

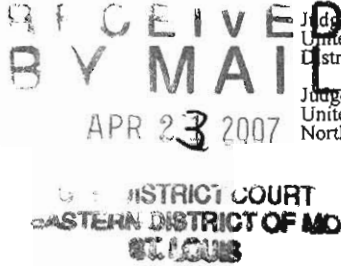
Judge Anthony J. Scirica
United States Court of Appeals
Third Circuit

DIRECT REPLY TO:

Jeffery N. Lüthi
Clerk of the Panel
One Columbus Circle, NE
Thurgood Marshall Federal
Judiciary Building
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Washington, D.C. 20002

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FILED

April 19, 2007

APR 23 2007

U. S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST LOUIS

James G. Woodward, Clerk
3300 Thomas F. Eagleton U.S. Courthouse
111 South Tenth Street
St. Louis, MO 63102-1116

Re: MDL-1811 -- In re LLRice 601 Contamination Litigation

Randy Schafer, et al. v. Riceland Foods, Inc., et al., E.D. Arkansas, C.A. No. 4:06-1407
Ephron H. Lewis, et al. v. Bayer CropScience, LP, et al., W.D. Louisiana, C.A. No. 6:06-2334
The Simpson Co. v. Bayer CropScience, LP, et al., S.D. Texas, C.A. No. 3:06-791

Dear Mr. Woodward:

I am enclosing a certified copy and one additional copy of a transfer order filed today by the Panel in the above-captioned matter. The order is directed to you for filing.

The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred."

A list of involved counsel is attached.

Very truly,

Jeffery N. Lüthi
Clerk of the Panel

By Dana L. Stewart
Deputy Clerk

Enclosures/Attachment

cc: Transferee Judge: Judge Catherine D. Perry
Transferor Judges: Judge Tucker L. Melancon; Judge George Howard, Jr.; Judge Samuel B. Kent
Transferor Clerks: James W. McCormack; Michael N. Milby; Robert H. Shemwell

A CERTIFIED TRUE COPY

APR 19 2007

ATTEST
FOR THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

FILED

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

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DOCKET NO. 1811 U. S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

FILED
CLERK'S OFFICE

JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE LLRICE 601 CONTAMINATION LITIGATION

Randy Schafer, et al. v. Riceland Foods, Inc., et al., E.D. Arkansas, C.A. No. 4:06-1407

Ephron H. Lewis, et al. v. Bayer CropScience, LP, et al., W.D. Louisiana, C.A. No. 6:06-2334

The Simpson Co. v. Bayer CropScience, LP, et al., S.D. Texas, C.A. No. 3:06-791

BEFORE WM. TERRELL HODGES, CHAIRMAN, D. LOWELL JENSEN, J. FREDERICK MOTZ, ROBERT L. MILLER, JR., KATHRYN H. VRATIL, DAVID R. HANSEN AND ANTHONY J. SCIRICA,* JUDGES OF THE PANEL

TRANSFER ORDER

Before the Panel are motions brought, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by plaintiffs in three actions to vacate the Panel's orders conditionally transferring the actions to the Eastern District of Missouri for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket. Defendant Bayer CropScience LP (Bayer) opposes the motions and urges inclusion of all actions in the MDL-1811 proceedings.

On the basis of the papers filed and hearing session held (without oral argument), the Panel finds that these three actions involve common questions of fact with the actions in this litigation previously transferred to the Eastern District of Missouri, and that transfer of the actions to the Eastern District of Missouri for inclusion in the coordinated or consolidated pretrial proceedings in that district will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The Panel further finds that transfer of these actions is appropriate for reasons expressed by the Panel in its original order directing centralization in this docket. In that order, the Panel held that the Eastern District of Missouri was a proper Section 1407 forum for actions involving allegations regarding Bayer's alleged role in causing the contamination of commercial rice stocks with LLRice 601, a variety of genetically modified rice. See *In re LLRice 601 Contamination Litigation*, 466 F.Supp.2d 1351 (J.P.M.L. 2006).

Various plaintiffs argue against transfer that, *inter alia*, their action should be excluded because of the absence of class allegations, the pendency of a motion to remand to state court, or the presence of unique claims and/or defendants. We are unpersuaded by these arguments. Transfer under Section 1407 has the salutary effect of placing related actions before a single judge who can formulate a pretrial program that: 1) allows discovery with respect to any individual issues to proceed efficiently with pretrial proceedings on common issues. *In re EpiEdu Products Liability Litigation*, 314 F.Supp.2d 1351 (J.P.M.L. 2006).

**A TRUE COPY OF THE ORIGINAL
JAMES G. WOODWARD, CLERK
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
BY: Sheen Compton
DEPUTY CLERK**

* Judge Scirica took no part in the decision of this matter.

APR 23 2007

U. S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

1373, 1375 (J.P.M.L. 2004); and 2) ensures that pretrial proceedings will be conducted in a streamlined manner leading to the just and expeditious resolution of all actions to the overall benefit of the parties. Any pending motions to remand an action to state court, or other pretrial motions, can be decided by the transferee judge. *See, e.g., In re Ivy*, 901 F.2d 7 (2d Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001). Further, should the circumstances regarding any MDL-1811 action develop such that the transferee judge determines that continued inclusion of the action or a claim no longer remains advisable, and accordingly the transferee court deems Section 1407 remand of any claim or action appropriate, procedures are available whereby this may be accomplished with a minimum of delay following a suggestion of remand to the Panel by the transferee judge. *See* Rule 7.6, R.P.J.P.M.L., 199 F.R.D. at 436-38.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these actions are transferred to the Eastern District of Missouri and, with the consent of that court, assigned to the Honorable Catherine D. Perry for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:



Wm. Terrell Hodges
Chairman